

HCS HB 229 -- SEX CRIMES

SPONSOR: Mayer

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 15 to 1.

This substitute makes a variety of changes in the laws governing sex crimes.

FORCIBLE RAPE AND FORCIBLE SODOMY

The substitute increases the minimum sentence for forcible rape and forcible sodomy from five years to 10 years imprisonment. The substitute also increases the minimum sentence from 10 years to 15 years for each of these crimes when the offender inflicts serious physical injury, displays a deadly weapon in a threatening manner, or subjects the victim to intercourse with more than one person.

TESTIMONY OF CHILD VICTIMS

The substitute requires the defendant to be excluded from the room when a child victim testifies at a deposition.

CHILD MOLESTATION

The substitute allows enhanced penalties for first degree child molestation when the offender has previously pled guilty to a sex offense in another state. Currently, enhanced penalties are available only when the offender has been found guilty in Missouri.

The penalty for second degree sexual molestation is increased from a class A misdemeanor to a class C felony. Enhanced penalties for second degree sexual molestation are allowed when the offender has previously pled guilty to a sex offense in Missouri or when the offender has pled guilty or been found guilty of a sex offense in another state. The enhanced penalty for second degree child molestation is increased from a class D felony to a class B felony.

The substitute creates the crimes of third and fourth degree child molestation. Third degree child molestation is subjecting a child less than 14 years of age to conduct that would be sexual contact except that touching occurs through clothing; it is a class D felony. The penalty becomes a class C felony if the offender has previously pled guilty or been found guilty of a sex offense in Missouri or another state, if the offender inflicts serious physical injury on the child, if the offender displays a

deadly weapon or dangerous weapon in a threatening manner, or if the conduct occurred as part of a ritual or ceremony. Fourth degree child molestation is subjecting a child less than 17 years of age to conduct that would be sexual contact except that touching occurs through clothing; it is a class A misdemeanor. The penalty becomes a class D felony if the offender has previously pled guilty or been found guilty of a sex offense in Missouri or another state, if the offender inflicts serious physical injury on the child, if the offender displays a deadly weapon or dangerous weapon in a threatening manner, or if the conduct occurred as part of a ritual or ceremony.

SEXUAL MISCONDUCT INVOLVING A CHILD

The substitute allows enhanced penalties for sexual misconduct involving a child when the offender has previously pled guilty or been convicted of a sex offense in Missouri or another state. Currently, the enhanced penalty is available only for second or subsequent sexual misconduct involving child offenses.

SEX OFFENDER TREATMENT

The substitute requires all convicted sex offenders, as a condition of probation, to successfully complete a sex offender treatment program and follow all directives of the treatment program provider.

FISCAL NOTE: Not available at time of printing.

PROPOSERS: Supporters say that Missouri has one of the lowest minimum sentences for forcible rape in the country. The recidivism rate of rapists is high. More than half of the men committing sex offenses this year will have already been to prison, only to be released after five or six years.

Testifying for the bill were Representative Wright; and Concerned Women of America.

OPPOSERS: Those who oppose the bill say that removing the five year minimum will result in some guilty defendants being acquitted and not serving a day in prison. This can happen in cases that are difficult to prove, such as date rape. In these prosecutions, it often comes down to the testimony of the victim and the testimony of the defendant. In some of these cases, someone on the jury will refuse to sentence a defendant to 10 years or more, but would agree to a five-year sentence.

Testifying against the bill was St. Louis County Prosecutor's Office.

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